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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,975	04/02/2004	Narasimhan Sundararajan	MS#305305.01 (5228)	1693
38779 7590 03/14/2008 SENNIGER POWERS LLP (MSFT) ONE METROPOLITAN SQUARE, 16TH FLOOR ST. LOUIS, MO 63102				
EXAMINER SAN JUAN, MARTINERIKO P				
ART UNIT		PAPER NUMBER		
2132				
NOTIFICATION DATE		DELIVERY MODE		
03/14/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/816,975

Applicant(s)

SUNDARARAJAN, NARASIMHAN

Examiner

MARTIN JERIKO P. SAN JUAN

Art Unit

2132

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-5, 8-13 and 16-20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Gilberto Barron Jr/
Supervisory Patent Examiner, Art Unit 2132

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's arguments filed February 20, 2008 have been fully considered but they are not persuasive.

The Applicant amended claims by incorporating the subject matter of dependent claims 7 and 15 into the independent claims 1, 9, 17, and 20. The Applicant respectfully alleges that the subject matter that has been incorporated is allowable subject matter. Particularly, claim 7 (which is also equivalent to claim 15) is the method of claim 1 wherein at least a portion of the electronic mail protocol operates securely using the Transport Layer Security (TLS) protocol. The Applicant respectfully submits that Wray teaches away from the use of TLS based on US 2001/0010076 A1, Pg 1, Par 0006. In other words, Wray attempts to avoid the use of TLS because Wray's systems "is not necessary to rely on TCP as a transport nor to have a respective TCP connection for each pair of securely communicating entities."

The Examiner respectfully disagrees. US 2001/0010076 A1, Pg 1, Par 0006 points out the difference in providing for a security protocol between the invention of Wray, and the existing TLS standard. Using TLS in a portion of Wray's invention does not teach away since it does not defeat or destroy Wray's invention. Wray in Par 0006 merely states that it is not necessary to rely on TCP [which is a standard transport protocol for connection on the Transport Layer, or Layer 4 of the OSI Network Model which the TLS operates] because Wray's Security Protocol operates on the Session Layer [or Layer 5 of the OSI]. In fact, Wray's invention accommodates for existing security standards as described and pointed previously in US 2001/0010076 A1, Par 0159. Referring to Par 0159, Wray teaches the method of claim 1 wherein at least a portion of the electronic mail protocol operates securely using the Transport Layer Security (TLS) protocol as disclosed when a client is unable to install an SLS plug-in into the web-browser ["In this case, the client running in the browser could use an HTTP/SSL secure connection to talk to the broker application with the broker authenticating the client..." Par 0159] [Par 0002 was used by the Examiner to point out that TLS is the same as SSL.].